



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

August 20, 2021

By Email
Prompt Reply Necessary

The Morris Companies
Attn: Keith Morris
350 Veteran's Boulevard
Rutherford, NJ 07070
Email: kmorris@morriscompanies.com

Re: Pierson's Creek Superfund Site – Newark, New Jersey
Request for Information Pursuant to 42 U.S.C. §§ 9601-9675

Dear Mr. Morris:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release or threat of release of hazardous substances, pollutants, or contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA" or the "Superfund law"), 42 U.S.C. §§ 9601-9675.

This letter seeks the cooperation of The Morris Companies in providing information relating to the contamination of the Pierson's Creek Superfund Site ("Site") located in Newark, New Jersey, and any information that may assist EPA in its investigation of the Site. EPA has documented the release and threatened release of hazardous substances, pollutants and contaminants at the Site. Under Section 104(e)(2) of CERCLA, EPA has broad information gathering authority, which allows EPA to require persons to provide information and/or documents relating to, among other things, materials generated, treated, stored, or disposed of at or transported to a facility as well as the nature and extent of a release of a hazardous substance, pollutant or contaminant at or from a facility. EPA may also request information pertaining to the ability of a person to pay for or perform a cleanup. Additional information about the Superfund law may be found at <https://www.epa.gov/superfund/superfund-cercla-overview>.

Upon information and belief, in or around 2015, The Morris Companies d/b/a Morris Newark Wilson Associates, LLC sold the property located at 338 Wilson Avenue, Block 5038, Lot 70 (also formerly Lots 108 & 109) in Newark, NJ ("Property") to Prologis Newark Wilson Associates, LLC. In the enclosed Request for Information, EPA seeks to obtain information concerning The Morris Companies and its activities at the Property. EPA also believes The Morris Companies may possess information pertaining to the former operations of Albert Steel Drum and/or Prentiss Drug and Chemical Company previously located on the Property. Pierson's Creek formerly flowed through the Property and any past releases of hazardous substances from the Property may have led to contamination in the remaining sections of the creek.

Internet Address (URL) • <http://www.epa.gov>

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We encourage you to give this matter your immediate attention. A complete and truthful response to the attached Request for Information should be provided **within 30 days** of your receipt of this letter. Should this deadline be difficult to meet in light of the COVID-19 situation, please contact the EPA individuals identified below to discuss an alternative response due date.

While EPA seeks your cooperation in this investigation, compliance with this Request for Information is required by law. In preparing your response to this Request for Information, please follow the instructions provided in Attachment A. When you have prepared your response to the Request for Information, please sign the enclosed "Certification of Answers to Request for Information" and return that Certification to EPA with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law (18 U.S.C. § 1001). In addition, CERCLA Section 104(e) authorizes EPA to pursue penalties for failure to comply with Requests for Information. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information from EPA upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions Section in Attachment A, including the requirement for supporting your claim of confidentiality.

Please further note that if, after submitting your response, you obtain additional or different information concerning the matters addressed by our information request, it is necessary you promptly notify EPA. If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

See the enclosed Instructions for information on how to respond to the enclosed questions. If you are able to send your response to this Request for Information by electronic mail, please send electronic copies (PDF or JPEG) to Pamela Tames and Amelia Wagner at the e-mail addresses below. Hard copies of your response should be mailed to:

Pamela Tames, P.E., Remedial Project Manager
Superfund and Emergency Management Division
U.S. Environmental Protection Agency
290 Broadway - 19th Floor
New York, NY 10007-1866
tames.pam@epa.gov

with a copy to:

Amelia Wagner, Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 17th Floor

New York, NY 10007-1866
wagner.amelia@epa.gov

If you have any questions regarding this Request for Information, or if you wish to discuss this matter further, please contact Ms. Tames at (212) 637-4255 with technical questions or Ms. Wagner at (212) 637-3141 with legal questions. Please note that all communications from attorneys should be directed to Ms. Wagner.

We appreciate and look forward to your prompt response to this information request.

Sincerely yours,

ERIC WILSON Digitally signed by ERIC WILSON
Date: 2021.08.20 14:12:46 -04'00'

Eric J. Wilson, Deputy Director
Enforcement and Homeland Security
Superfund and Emergency Management Division

Attachments

cc: Pamela Tames, P.E., EPA
Amelia Wagner, Esq., EPA

ATTACHMENT A

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. In answering the questions, every source of relevant information to which you have access should be consulted, regardless of whether the source is in your immediate possession or control. All relevant documents or other information, including records of all types of manufacturing, treatment, transportation or disposal operations, in your possession or in the possession of the company should be consulted.
2. A complete and separate response should be given for each question. For each question contained in this letter, if the information or documents responsive to this information request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
3. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
4. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
5. In answering each question, identify each individual and any other source of information (including documents) that was consulted in the preparation of the response to the question.
6. If you are unable to give a detailed and complete answer or to provide any of the information or documents requested, indicate the reason for your inability to do so.
7. If you have reason to believe an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, email address, phone number and the reasons for your belief.
8. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, and number of pages and all recipients of the document with its addresses. If anything is omitted from a document produced in your response to the Request for Information, state the reason for and the subject matter of the omission.
9. If you cannot provide a precise answer to a question, please approximate, but in any such instance, state the reason for your inability to be specific.
10. If anything is omitted from a document produced in response to the Request for Information, state the reason for, and the subject matter of, the omission.

11. Sign the Certification of Answers to Request for Information where indicated.
12. Confidential Information. The information requested herein must be provided even though you may contend it includes confidential information or trade secrets. You may assert a confidentiality claim which covers part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F).

If you make a claim of confidentiality for any of the information you submit to EPA, you must address the following points:

- a. The portions of the information alleged to be entitled to confidential treatment;
- b. The period of time for which the confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. Measures taken by you to guard against the undesired disclosure of the information to others;
- d. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determination or a reference to them, if available; and
- f. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "Confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA review. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such a claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e)(7) and EPA's pre-disclosure notification procedures. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you. EPA provides no assurances that all information that you assert as confidential business information will not be publicly disclosed. Any determination regarding public disclosure will be based on a review of the information and relevant countervailing factors.

B. Definitions

1. The term **“arrangement”** shall include every separate contract or other agreement between two or more persons, whether written or oral.
2. As used herein, the terms **“company”** or **“your company”** refer not only to The Morris Companies as it is currently named and constituted, but also to all predecessors or successors in interest and all subsidiaries, divisions, affiliates and branches of your company and all of its predecessors or successors in interest. The term “company” is not limited to corporations.
3. The terms **“disposal,” “hazardous waste”** and **“storage”** shall have the meanings contained in Sections 1004(3), (5) and (33) of Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6903(3), (5) and (33), respectively.
4. The term **“document”** and **“documents”** shall include any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in the company’s possession, custody, or control or known by the company to exist, including originals and all non-identical copies.
5. The terms **“facility,” “hazardous substance,”** and **“person”**, shall have the meanings set forth in Sections 101(9), (14), and (21) of CERCLA, 42 U.S.C. §§ 9601(9), (14), and (21) respectively.
6. The term **“identify”** means, with respect to a natural person, to set forth the person’s name, present or last known employer, business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position or business. With respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) the term **“identify”** means to provide its full name, address, and affiliation with the individual and/or company to whom this request is addressed.
7. The term **“material”** or **“materials”** shall include any and all objects, goods, substances, or matter of any kind, including, but not limited, to wastes.
8. The term **“pollutant or contaminant”** shall have the same definition as that contained in Section 101(33) of CERCLA and includes any mixtures of such pollutants or contaminants with any other substances.
9. As used herein, the term **“Property”** refers to 338 Wilson Avenue, Newark, NJ 07105 (Block 5038, Lot 70). Upon information and belief, the two other lots associated with this property, Lots 108 and 109, were merged with Block 5038, Lot 70.
10. The term **“release”** shall have the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
11. The term **“Site”** shall mean the Pierson’s Creek Superfund Site, which includes Pierson’s Creek, all tributaries to Pierson’s Creek, and the Troy Chemical Corporation property located at One Avenue L, Newark, NJ 07105. The Site is located in Newark, NJ in the vicinity of Avenue L.

Pierson's Creek proceeds through open drainage ditches and culverts and covered pipes until it discharges into the Port Newark slip of Newark Bay. While the Creek originates in the vicinity of Avenue L, it collects drainage from storm drains and culverts north of Avenue L.

12. The term **“you”** shall mean the addressee of this Request for Information, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns or agents.
13. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

ATTACHMENT B

REQUEST FOR INFORMATION

- 1) Please answer the following questions with respect to The Morris Companies:
 - a) State the legal name of the company.
 - b) State the name and address of the president or the chairman of the board, or other presiding officers of the company.
 - c) Identify the state of incorporation of the company and the company's agent for service of process in the state of incorporation and in New Jersey.
 - d) State whether The Morris Companies is a subsidiary or affiliate of another company. If so, please identify the name of each such related company. For each related company, describe the relationship to The Morris Companies and indicate the date and manner in which each relationship was established.
- 2) Did The Morris Companies own the Property? If so, from whom did The Morris Companies purchase the Property and in which year? Please describe the relationship, if any, between The Morris Companies and any of the parties that owned or operated at the Property prior to The Morris Companies.
 - a) Please provide a copy of The Morris Companies' deed or deeds to the Property. If the Property is held in the name of another entity, please identify the legal name of the entity and its relationship to The Morris Companies, and list the company president or chairman of the board or other presiding officers of that company.
 - b) If this information has not already been previously provided in your responses to the questions above, please describe how Albert Steel Drum is or was connected to the Property and if Albert Steel Drum has or had any relationship with The Morris Companies.
 - c) If this information has not already been previously provided in your responses to the questions above, please describe how Prentiss Drug and Chemical Company is or was connected to the Property and if Prentiss Drug and Chemical Company has or had any relationship with The Morris Companies.
 - d) If this information has not already been previously provided in your responses to the questions above, please describe how Tony Pallet, Inc. is or was connected to the Property and if Tony Pallet, Inc. has or had any relationship with The Morris Companies.
 - e) If applicable, provide a list of any tenants who operated at the Property while The Morris Companies owned it. Describe the nature of business and activities performed by each tenant and/or operator at the Property.

- 3) Describe all investigations and/or remediation of the Property that The Morris Companies undertook prior to acquiring it as well as during its ownership. Provide all reports, permits, sampling results, remediation plans and correspondence relating to the operations, environmental conditions, and status of any investigations/remediation efforts at the Property. Please include with your answer to this question:
- a) Any documentation and sampling data related to the storage, use, removal, and disposal of chemical storage drums located at the Property;
 - b) Any documentation and sampling data related to any fill located at the Property;
 - c) Any documentation and sampling data related to any drainage ditches or culverts located on the Property; and
 - d) The federal, state, and/or local authority under which such investigations and/or remediation were carried out, and whether a Licensed Site Remediation Professional was engaged in connection with the work.
- 4) Was there a groundwater Classification Exception Area filed during the time The Morris Companies owned the Property? Please provide all relevant information.
- 5) Regarding any drainage ditches or culverts located on the Property while The Morris Companies owned it:
- a) Please describe the location of such ditches or culverts and where each ditch or culvert drained to.
 - b) Please describe the type and annual amount of materials and/or substances that drained into such ditches or culverts while The Morris Companies owned or operated at the Property. Provide any documentation and information related to the type of material and/or substances which entered and subsequently drained from the Property's ditches or culverts.
- 6) Did The Morris Companies make any improvements to or utilize any institutional/engineering controls on the Property? If so, please describe the improvements and/or institutional/engineering controls and provide all related documents and information, including but not limited to the location of such improvements and/or institutional/engineering controls and the materials utilized.
- 7) Were any sewer systems located on the Property connected to the Passaic Valley Sewerage Commission ("PVSC") during the time The Morris Companies owned or operated at the Property? If so, please provide all related documents and information, including but not limited to, the date from which the sewer system was connected to the PVSC.
- 8) Please describe The Morris Companies' business operations at the Property.
- 9) Did The Morris Companies ever receive, utilize, manufacture, discharge, release, store, dispose of or otherwise handle any hazardous substances, pollutants or contaminants at the Property? If the answer to the preceding question is anything but an unqualified "no," identify:

- a) In general terms, the nature and quantity of the hazardous substances, pollutants or contaminants so received, utilized, manufactured, discharged, released, stored, disposed of, or otherwise handled.
- b) The chemical composition, characteristics, physical state (e.g., solid, liquid) of each hazardous substance, pollutant or contaminant.
- c) The persons/entities who supplied The Morris Companies with each such hazardous substance, pollutant or contaminant.
- d) How, when, and where each such hazardous substance, pollutant or contaminant was received, utilized, manufactured, discharged, released, stored, disposed of, or otherwise handled.
- e) The quantity, calculated per year, of each such hazardous substance, pollutant or contaminant received, utilized, manufactured, discharged, released, stored, disposed of, or otherwise handled.

10) Did The Morris Companies or any prior owner receive, utilize, manufacture, discharge, release, store or dispose of any materials containing the following substances at the Property:

- a) 1, 1- Dichloroethane (Yes/No)?
- b) 1, 1, 1- Trichloroethane (Yes/No)?
- c) 2, 3, 7, 8 – tetrachlorodibenzo-p-dioxin (Yes/No)?
- d) Other dioxin compounds (Yes/No)?
- e) Aldrin (Yes/No)?
- f) Antimony (Yes/No)?
- g) Arsenic (Yes/No)?
- h) Benzene (Yes/No)?
- i) Cadmium (Yes/No)?
- j) Chromium (Yes/No)?
- k) Chlordane (Yes/No)?
- l) Dichloro-diphenyl-trichloroethane (DDT) (Yes/No)?
- m) Dieldrin (Yes/No)?
- n) Ethyl benzene (Yes/No)?
- o) Iron (Yes/No)?
- p) Lead (Yes/No)?
- q) Lindane (Yes/No)?
- r) Manganese (Yes/No)?
- s) Mercury (Yes/No)?
- t) Naphthalene (Yes/No)?
- u) Other volatile organic compounds (VOCS) (Yes/No)? If “Yes,” please list the specific compounds.
- v) Other semi-volatile organic compounds (SVOCs) (Yes/No)? If “Yes,” please list the specific compounds.
- w) Pentachlorophenol (Yes/No)?
- x) Perfluorooctanoic acid (PFOA) (Yes/No)?
- y) Perfluorooctanesulfonic acid (PFOS) (Yes/No)?
- z) Other Per- and polyfluoralkyl substances (PFAS) (Yes/No)?

- aa) Polyaromatic Hydrocarbons (PAHs) (Yes/No)? If “Yes,” please list the specific compounds.
- bb) Polychlorinated biphenyls (PCBs) (Yes/No)? If “Yes,” please list the specific Aroclors or other formulations.
- cc) Silver (Yes/No)?
- dd) Toluene (Yes/No)?
- ee) Total Petroleum Hydrocarbons (TPH) (Yes/No)?
- ff) Vinyl Chloride (Yes/No)?
- gg) Xylene (Yes/No)?
- hh) Zinc (Yes/No)?

- 11) Describe any methods of collection, storage, treatment, and disposal of all hazardous substances, pollutants or contaminants at the Property utilized by The Morris Companies, including, but not limited to, the substances identified in your responses to questions 9 and 10.
- 12) Were any hazardous substances, pollutants or contaminants, including, but not limited to, the substances identified in your responses to questions 9 and 10, above, disposed of in or discharged to Pierson’s Creek including its unnamed tributaries? If yes, identify the substances, estimate the amount of material discharged to or disposed of in Pierson’s Creek including its tributaries, the location of the discharges/disposals, and the frequency with which such discharges or disposals occurred. Also, please include the results of any sampling of the Creek or unnamed tributaries which may have been done after any discharge or disposal.
- 13) Please identify any leaks, spills, explosions, fires or other incidents of accidental material discharge that occurred at the Property during which or as a result of which any hazardous substances, pollutants or contaminants including, but not limited to, the substances identified in your responses to questions 9 or 10, were released on the Property, into the wastewater or storm drainage system at the Property, or to Pierson’s Creek including its unnamed tributaries. Provide any documents or information relating to these incidents, including the ultimate disposal of any contaminated materials. If available, please provide the results of any sampling of the soil, water, air or other media after any such incident and before and after clean-up.
- 14) Did the Property ever flood while it was owned or occupied by The Morris Companies? If so, how often did the flooding occur on the Property? Have storm sewer back-ups occurred at the Property, and/or did Pierson’s Creek or its unnamed tributaries overflow their banks onto the Property?
- 15) If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
- 16) Is The Morris Companies a successor to any liabilities, including those under CERCLA, of any other company with respect to the Property? If so, please identify the other company, the liabilities to which your company succeeded, and how your company succeeded to the identified liabilities. Please provide copies of any agreements or other records documenting the basis for your answer.
- 17) Please provide all agreements or contracts, including but not limited to insurance policies, which may indemnify your company or business, and its present or past owners, operators, partners, and/or shareholders, with respect to any liability they are found to have under CERCLA for releases and threatened releases of hazardous substances at the Site.

- a) In responding to this request, please provide not only those insurance policies and agreements currently in effect, but also those that were in effect from the date your company began operations at, or acquired ownership of, the Property to the present.
 - b) If you have not retained such policies but have information concerning them, please provide the following information: i) the name and address of the insurance company; (ii) policy number/account; (iii) the type of coverage provided under each policy; (iv) the commencement and expiration dates for each policy; (v) whether or not the policy contains a “pollution exclusion” clause; and (vi) whether the policy covers or excludes sudden, non-sudden or both types of accidents.
- 18) Please provide a detailed description of any civil, criminal, or administrative proceedings against The Morris Companies for violations of any local, state, or federal laws or regulations relating to water pollution or hazardous waste generation, storage, transport, or disposal at or from the Property. Provide copies of all pleadings and depositions or other testimony given in these proceedings.
- 19) Provide the name, address, telephone number, title, and occupation of the person(s) answering this Request for Information and state whether such person(s) has personal knowledge of the information provided in the responses. In addition, identify each person who assisted in any way in responding to the Request for Information and specify the question to which each person assisted in responding. Please include the names and addresses of former employees who were contacted to respond to any of the questions.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____:

County of _____:

I certify under penalty of perjury that I am authorized to respond on behalf of The Morris Companies, I have personally examined and am familiar with the information and all documents submitted in response to EPA's Request for Information, and based on my inquiry of those individuals immediately responsible for obtaining the information I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that The Morris Companies is under a continuing obligation to supplement this response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me or The Morris Companies after submitting this response.

Executed on _____, 2021

NAME (print or type)

TITLE (print or type)

SIGNATURE